

GENERAL COUNSEL

Introduction

This position is located in the Clerk's Office of the United States Bankruptcy Court, District of Hawaii. The General Counsel provides legal analysis, advice and assistance to the Bankruptcy Court and Clerk's Office, particularly in the areas of bankruptcy, employment and procurement law, and reviews court policies, procedures, and guidelines for compliance. In addition to these responsibilities, the General Counsel serves as the court's Bankruptcy Alternative Dispute Resolution ("BDR") Administrator, and the court's Employment Dispute Resolution ("EDR") Coordinator.

Representative Duties

1. Researches, evaluates and reviews legislation, laws, rules, regulations, and policies affecting the Bankruptcy Court, especially in the areas of bankruptcy, employment and procurement. Ensures that local rules, policies, procedures and guidelines are integrated with related laws, rules and regulations.
2. Provides legal advice and assistance, and conducts research and prepares memoranda on specific legal questions of relevance to the court and Clerk's Office.
3. Drafts local rules, general orders, guidelines and procedural memoranda. Drafts form motions, notices and orders for use by the local bar and the public.
4. Researches legal issues, and develops and monitors new procedures related to the electronic filing of documents and presentation of evidence using video and audio technology.
5. Provides legal research and advice to recalled and visiting judges.
6. Acts as liaison with the local bar, Office of the U.S. Trustee, Chapter 7 Panel Trustees, the Chapter 13 Standing Trustee, state courts, other government agencies, the media and the public. Prepares materials for informational and educational presentations to those entities. Conducts workshops with the local bar on court practices and procedures. Prepares informational materials for *pro se* parties.
7. Supervises intake clerks, case administrators and other staff on compliance with procedures and requirements of the Bankruptcy Code and Rules, and local rules and general orders. Develops and conducts training programs on legal issues for the staff of the clerk's office.
8. Screens complaints and motions for jurisdictional and filing defects. Reviews non-hearing and *ex parte* motions such as requests to approve reaffirmation agreements and for examinations under Fed. R. Bankr. P. 2004. Submits proposed dispositions within time frames established by court
9. Develops and coordinates training programs for the local bar with respect to technological

changes in the court, such as electronic filing, videoconferencing and the electronic presentation of evidence.

10. Acts as resource for internal and external audit teams.

BDR Program

11. Formulates BDR policy for court approval. Drafts and revises the local rules and guidelines on BDR for court approval. Drafts and revises court orders and forms describing or implementing the BDR program.
12. Serves as the BDR Administrator, implementing mediation program procedures. Acts as liaison with the Bankruptcy Mediation Committee. Collects and analyzes data to evaluate mediators and the program.
13. Responds to inquiries from members of the Bankruptcy Mediation Panel, including but not limited to those inquiries seeking advice on the interpretation of court rules and policies on matters including conflicts of interest, and the mediator's authority to modify the BDR process to suit the needs of the parties.
14. Serves as spokesperson representing the court and its BDR program to the bar and the public and designs and conducts, as appropriate, educational programs for members of the bench, the bar and litigants to explain the court's BDR processes.
15. Maintains liaison with bar associations, federal and state courts and agencies, and professional ADR organizations to share ideas and developments.

Employment Dispute Resolution

16. Monitors compliance with all matters relating to the Equal Employment Opportunity Plan and the Employment Dispute Resolution ("EDR") Plan. Serves as a resource in developing and implementing a comprehensive policy, training program and procedures manual for managers to ensure understanding and compliance with EDR and adverse action policy requirements. Acts as liaison with other agencies and entities regarding EDR and legal matters.
17. Serves as EDR Coordinator for the Bankruptcy Court and alternate coordinator for the District Court. Performs investigation and record-keeping responsibilities of coordinator as specified in the EDR Plan. Prepares annual report summarizing the court's efforts to provide equal employment opportunities in recruitment, hiring, promotions, and advancement.
18. Researches current developments in employment law in such matters as discrimination, disability, and sexual harassment, in order to advise managers and to respond to inquiries by staff.

Factor 1, Job Requirements:

Thorough knowledge of the law and legal procedures, especially pertaining to bankruptcy, employment and procurement. Ability to comprehend a wide range of legal concepts, principles and practices. Ability to analyze complex legal questions and problems. Ability to conduct research of all available sources and provide proposed solutions based on that research. Skill in writing legal memoranda, opinions, orders, and other documents. Skill in the oral presentation of complicated legal matters to judges. Ability to apply existing or new principles in difficult, challenging or doubtful situations.

Ability to represent the court's perspective to the legal community and public. Ability to develop, coordinate and deliver training programs. Skill in orally presenting complex information on bankruptcy procedure and the Bankruptcy Court's BDR program to judges, bar groups, litigants, court administrators and others. Skill in writing articles for publication and in writing informational materials for judges, attorneys, litigants, and the public.

Thorough knowledge of alternative dispute resolution for administering the Bankruptcy Court's BDR program. Ability to comprehend a wide range of concepts, principles and practices in the process of alternative dispute resolution, including techniques, ethical considerations and the philosophies behind the various processes. Thorough knowledge of how BDR processes impact case management. Thorough knowledge of the litigation process, procedures and rules in federal court. Skill in developing court policy while taking into account the sometimes divergent needs and interests of the litigants, attorneys, the court and Clerk's Office. Ability to design the BDR program and an overall administrative structure consistent with that policy. Ability to draft and revise local rules and guidelines on BDR, court orders and forms to implement court policy and procedures. Ability to work closely with judges and to tailor BDR procedures to meet their case management needs. Ability to analyze data, assess program results, and use statistical analysis to prepare reports and recommendations.

Thorough knowledge of employment-related law for acting as EDR Coordinator. Ability to comprehend a wide range of concepts, principles and practices in employment law, including discrimination, disability, sexual harassment and related issues.

Factor 2, Scope and Effect of Work:

The research and recommendations made by the General Counsel substantially affect the final decisions made on a wide variety of issues such as those related to bankruptcy, employment and procurement. The work of the General Counsel directly impacts the ability of managers at all levels of the court to make decisions pertaining to personnel and bankruptcy management and other legal issues. To the extent the General Counsel's work affects the decision making process, the impact may extend far beyond the court. The work of the General Counsel in educating the local bar and public on court procedures, electronic filing, video presentation of evidence will directly impact the court's relationship with attorneys and the public.

The research and recommendations made by the General Counsel substantially affect the court's

BDR services, procedures and local rules. The work of the General Counsel, as BDR Administrator, directly impacts the quality of information given to attorneys and litigants and the quality of the assistance given to the mediators conducting BDR sessions, and therefore impacts the productivity of the court's BDR program. Ultimately the work of the General Counsel may affect the satisfaction of litigants with the outcome of their cases and with the court's procedures. It may also affect the cost and time it takes for parties to litigate their cases and may therefore impact the court's caseload. To the extent the work involves educating those from outside the district, the impact may extend far beyond the court.

The research and recommendations made by the General Counsel substantially affect the court's Equal Employment Opportunity Plan and the Employment Dispute Resolution Plan. The work of the General Counsel, as EDR Coordinator, directly impacts the ability of managers to make decisions pertaining to human resources.

Factor 3, Complexity:

The work may cover all areas of the law and the General Counsel must be able to determine the approach to be taken for each issue or incident. The General Counsel must use his or her own judgment in identifying the critical legal issues and the legal precedents and must develop a broad, sequential legal analysis to support a substantive recommendation. Each issue or incident may be unique, requiring different choices in approach, interpretation and analytical process. The work requires constant effort to keep abreast of continually evolving changes in legal theories and precedent.

The General Counsel, as BDR Administrator, must be able to perform a wide variety of functions in which to apply his or her own judgment and expertise. These functions include policy making, program design, implementation and evaluation, attorney conferences, public speaking and writing. A matter referred to the BDR program represents a unique situation and the program attempts to provide processes to meet the needs of the parties. Complicated ethical and strategic considerations arise in advising mediators, counsel and judges. The work requires constant effort to keep abreast of continually evolving changes in the field of alternative dispute resolution.

The General Counsel, as EDR Coordinator, must be able to determine the approach to be taken for each incident. The General Counsel must use his or her own judgment in identifying the critical legal issues and precedents, as well as pertinent facts, and must develop a broad sequential legal analysis to support a substantive recommendation. Each issue or incident may be unique, requiring different choices in approach, interpretation and analytical process. This work requires constant effort to keep abreast of continually evolving changes in legal theories and precedent in employment law.

Factor 4, Work Parameters:

The General Counsel reports directly to the Clerk of Court. The General Counsel has wide latitude in researching, analyzing issues, writing reports and recommendations, and drafting opinions and orders. In issues relating to the BDR program, the General Counsel also has wide latitude in performing all of the job responsibilities which includes preparing recommendations to the court

regarding BDR policy, conducting training programs, advising counsel and mediators on court policy and BDR strategy and technique, writing articles and preparing explanatory materials and making oral presentations. Some work product may be reviewed by the Clerk of Court; however, the majority of the work product is not reviewed. In matters relating to EDR, the General Counsel has wide latitude in performing all responsibilities and in providing a neutral coordinator in achieving resolution of an EDR issue between court management and employee.

Factor 5, Personal Interactions:

The General Counsel routinely interacts with the Clerk of Court, Chief Deputy Clerk, bankruptcy judges, and managers to present and justify a proposed recommendation and resolve all significant issues. The General Counsel supervises deputy clerks and other staff members in their job performance as it relates to compliance with procedures and other legal requirements. The General Counsel may also interact with law clerks and law librarians, the Administrative Office of the U.S. Courts (AO) and the Ninth Circuit, as well the local bar, the Office of U.S. Trustee, Chapter 7 Panel Trustees, the Chapter 13 Standing Trustee, officials of the state court and other governmental agencies, and the media and the public. In addition, contacts are often made with counterparts in other courts and agencies for the purposes of sharing information on current procedures and practices.

The General Counsel interacts frequently with mediators while advising them on strategy and technique for BDR sessions and responding to their inquiries. The General Counsel interacts with attorneys with cases before the court in response to their inquiries. The General Counsel also interacts with and makes presentations to leaders of the bar, the bar, groups of judges and court administrators, and other groups interested in the BDR program. The General Counsel interacts with AO personnel, FJC researchers, consultants studying alternative dispute resolution, and judges and court administrators from other courts.

As EDR Coordinator, the General Counsel interacts with court managers and all employees for questions on issues and incidents involving discrimination, disability, sexual harassment, and other employment issues.

Factor 6, Environmental Demands:

The work is generally performed in a professional office setting. The General Counsel leaves the office to conduct and to participate in workshops and conferences on matters of bankruptcy, employment and procurement law, court procedures, the BDR program, and the EDR plan.